



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY


WASHINGTON, D.C. 20460

October 2, 2009

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

MEMORANDUM

**Subject:** Supplemental Guidance on Recovery Act Recipient Reporting (Section 1512) of the American Recovery and Reinvestment Act of 2009

**From:** Carolyn Hoskinson, Director  
Office of Underground Storage Tanks 

**To:** Regional UST Division Directors, Regions 1-10  
Regional UST Deputy Division Directors, Regions 1-10  
Regional UST Branch Chiefs, Regions 1-10  
Regional UST Program Managers, Regions 1-10

On June 22, 2009, the Office of Management and Budget (OMB) published additional guidance for carrying out the reporting requirements of Section 1512 of the American Recovery and Reinvestment Act of 2009 (Recovery Act). OMB's guidance [see [http://www.whitehouse.gov/omb/assets/memoranda\\_fy2009/m09-21.pdf](http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-21.pdf)] clarifies what information must be reported, provides steps recipients must take to meet these requirements, clarifies issues related to the reporting mechanics, and addresses data quality assurance.

This memorandum provides supplemental guidance on the applicability of OMB's guidance for Leaking Underground Storage Tank (LUST) Recovery Act assistance agreement recipients. In particular, this memorandum provides additional and supplemental guidance to our *Guidance To Regions For Implementing The LUST Provision Of The American Recovery And Reinvestment Act Of 2009*, EPA-510-R-09-003, June 2009, <http://www.epa.gov/OUST/eparecovery/lustproguide.pdf> (*LUST Recovery Act Guidance*), including the determination of a project or activity, the applicability of the terms "sub-recipient" and "vendor," and additional infrastructure reporting requirements. I am also attaching to this memorandum an example of a fictitious state scenario with a completed Excel Section 1512 template from FederalReporting.gov. Please share this guidance with states<sup>1</sup> receiving LUST Recovery Act funds.

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<sup>1</sup> "States," as referenced throughout this memorandum, also includes territories as described in the definition of "state" in the Solid Waste Disposal Act.

Before states can enter their Section 1512 data, they must first register at [FederalReporting.gov](http://FederalReporting.gov). I encourage each of your regional reviewers to register as well, so that you are prepared to review the data submitted by states.

## **Project/Activity**

Section 1512 of the Recovery Act requires assistance agreement recipients to submit a report every quarter that contains a variety of information, including information about the projects or activities covered by the assistance agreement. All LUST Recovery Act assistance agreement recipients must provide one recipient report each quarter, which will include single or multiple LUST sites. In order to ensure national consistency, EPA has determined that when states address multiple LUST sites under a single scope of work, Recovery Act funds are expended for one “project” for purposes of Section 1512 reporting. For example, if a state and EPA have agreed in the assistance agreement workplan to address 200 LUST sites within that state, the work associated with those 200 sites is considered one “project.” The same approach must be taken for sub-recipients. A sub-grant where the workplan calls for work on multiple LUST sites would consider those sites to be one project for Section 1512 reporting purposes.

Although states can submit one Section 1512 report per cooperative agreement, states should provide additional details on LUST activities in the “Quarterly Activities/Project Description” field. In this field states should include the same performance measures reported to OUST: site assessments initiated; site assessments completed; cleanups initiated; and cleanups completed, both for the quarter and cumulatively.

## **National Center for Charitable Statistics “NTEE-NPC” Codes and North American Industry Classification System (NAICS) Codes**

States must also report on activities by either National Center for Charitable Statistics “NTEE-NPC” or NAICS codes under the OMB Section 1512 Reporting Requirements guidance. OMB’s guidance [see Activity Code and Project Description definitions on pages 11-12 of “Recipient Reporting Data Model v3.0”, <http://www.recovery.gov/sites/default/files/FedRptgDataModel.doc>] makes the distinction that, for awards that primarily fund infrastructure projects, the recipient should use NAICS codes in the activity code field. Otherwise, the recipient should use NTEE-NPC codes.

In general, LUST Recovery Act assistance agreements will not fund infrastructure projects; therefore, most states should use NTEE-NPC codes. In such cases, states should use the code “C06.04 – Environment Hazards Control.” If your LUST Recovery Act cooperative agreement primarily funds infrastructure activities, then you should use the NAICS code “237110 – Water and Sewer Line and Related Structures Construction.”

## **Infrastructure**

States must report additional information for LUST Recovery Act infrastructure expenditures. Our *LUST Recovery Act Guidance* identifies as being infrastructure those LUST activities that install piping to connect households or businesses to public water systems or

replace public water system supply wells and associated piping due to groundwater contamination [see page 13 of <http://www.epa.gov/oust/eparecovery/lustproguide.pdf> ]. States must report the total infrastructure expenditures and must explain how the infrastructure investments contribute to one or more of the purposes of the Recovery Act. For example, if five of a state's 200 LUST sites have infrastructure investments, then the state must report the total expenditures of those five infrastructure investments separately as "Infrastructure Expenditures" and explain how these infrastructure investments will provide long-term economic benefits ("Infrastructure Rationale").

## **Sub-recipients and Vendors**

Section 1512 reporting requirements are different for activities performed by sub-recipients and vendors. OMB's guidance clarifies the distinction between sub-recipients and vendors. As several states requested, I am providing additional guidance on how to classify a LUST cleanup contractor. Cleanup contractors, secured by states, territories, or sub-grantees, are considered vendors, not sub-recipients. Cleanup contractors are providing a commercially available service to the state, territory, or sub-recipient, and are, therefore, vendors under §\_\_\_\_.210 of OMB circular A-133. This also applies to other service providers, such as laboratories that provide analytical support for LUST work. Therefore, cleanup and service contractors are not subject to the reporting requirements under Section 1512.

In contrast, if a state provides financial assistance to a unit of local government (including a special purpose district) to enable that unit of government to address LUST sites within its jurisdiction, the local government is considered a sub-recipient. Recipients may delegate certain reporting requirements to the sub-recipient, but whether or not such delegation occurs, the recipient is ultimately responsible for the completion of such reporting.

As described in OMB's guidance, for all vendors that receive an individual payment of more than \$25,000, recipients or sub-recipients must report the vendor's Data Universal Numbering System (DUNS) number, aggregate payment amount, and a description of the services provided. Recipients or sub-recipients must report the aggregate dollar amount of payments made to vendors during the quarter that are less than \$25,000.

Finally, when reporting job estimates, it is expected that states will directly collect this information from sub-recipients and vendors. We do not expect states receiving LUST Recovery Act funding to use a statistical method to develop direct job estimates.

## **Additional Reporting Requirements for UST Program Performance Measures**

As described in our *LUST Recovery Act Guidance*, states must report to EPA on the eight LUST program performance measures. States must also maintain site-specific records, including locational information, when LUST Recovery Act funds are used for direct site work (see pages 7-9).

## **Further Information or Questions**

OMB's June 22, 2009 memorandum provides the most extensive guidance on recipient reporting requirements to date. In addition, OMB posted frequently asked questions about the technical recipient reporting solution at <https://www.federalreporting.gov/federalreporting/faq.do> and created a hotline to address questions at 877-508-7386. If you have questions related to this memo, please contact Tim Roberts of my staff at [roberts.timothy-p@epa.gov](mailto:roberts.timothy-p@epa.gov) or 703-603-7144.

cc: Renee Wynn, OSWER  
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Attachments

## **Attachment 1 – State Recipient Reporting Example**

**NOTE: All dollar amounts, hours worked, and LUST numbers are fictitious.**

### *Scenario*

Maryland receives a two-year \$5 million LUST Recovery Act assistance agreement to conduct 35 LUST site assessments and cleanups. The state distributes this money to four different cleanup contractors. During this quarter Maryland drew-down \$282,000 of their \$5 million and their vendors expended \$282,000. With this money, Maryland initiated two site assessments, completed one site assessment, initiated 11 cleanups, and completed one cleanup. During the first federal fiscal year quarter, the following activities took place:

#### Contractor 1

- Awarded \$1 million
- Received four payments, one for \$60,000 and two others for \$50,000 each that went towards infrastructure work
- Four full-time employees worked a total of 2,080 hours
- Initiated six cleanups
- Initiated and completed one site assessment

#### Contractor 2

- Awarded \$500,000
- Received one payment of \$100,000
- Three full-time employees worked a total of 1,560 hours
- Initiated four cleanups
- Completed one cleanup

#### Contractor 3

- Awarded \$30,000
- Received two payments, worth \$10,000 each
- One part-time employee worked 150 hours
- Initiated one cleanup

#### Contractor 4

- Awarded \$5,000
- Received one payment of \$2,000
- One part-time employee worked 150 hours
- Initiated one site assessment

Attachment 2 is a sample report reflecting the scenario above. The file was downloaded from [www.FederalReporting.gov](http://www.FederalReporting.gov), and all dollar amounts, award numbers, DUNS numbers, company names, and addresses are fictitious. The following information will be the same for all states receiving a LUST Recovery Act assistance agreement:

- Award Type

- Funding Agency Code
- Awarding Agency Code
- Program Source (TAS)
- CFDA Number
- Activity Code (unless the state is funding primarily infrastructure projects)
- Prime Recipient Indication of Reporting Applicability

There is additional information worth noting in the example Excel reporting template. Because a LUST Recovery Act assistance agreement to a state is considered one project that is funding activities throughout the state, the primary place of performance should match the award recipient information. Likewise, the congressional district for both the recipient information and primary place of performance should match the congressional district for where the recipient state agency is located. If there is any infrastructure work being done in the state with LUST Recovery Act funding, the state needs to enter a contact for that infrastructure work. This should be someone associated with the state and not the vendor. Furthermore, if there is infrastructure work being done, the infrastructure description should generally match the language in the attached sample template. Finally, to calculate jobs, the recipient needs to add up the total number of hours worked and divide this by 520 for the first quarter. The denominator will increase by 520 every reporting period for the life of the LUST Recovery Act assistance agreement.